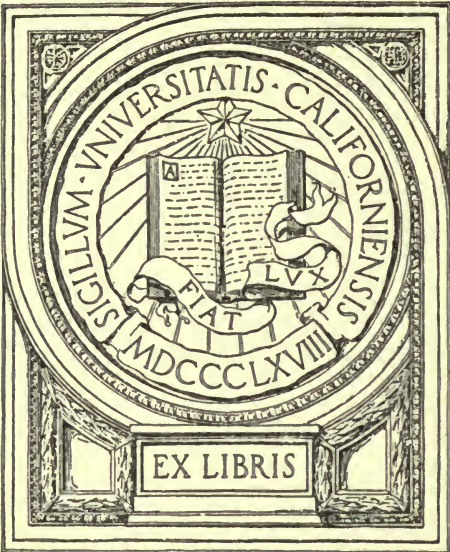


California Bank Act. 1909.

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California Bank Act



1909

COMPLIMENTS OF
STATE SUPERINTENDENT OF BANKS

To take Effect July 1, 1909

SACRAMENTO:

ANNON - - - SUPERINTENDENT STATE PRINTING
1909

California Bank Act

PASSED AT THE

Thirty-eighth Session of the Legislature

1909



SACRAMENTO:

W. W. SHANNON - - - SUPERINTENDENT STATE PRINTING

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BANK ACT OF CALIFORNIA.

[Approved March 1, 1909.]

ARTICLE I.

GENERAL PROVISIONS.

SECTION 1. This act shall be known as the "Bank Act," and shall be applicable to all corporations and individuals specified in the next section.

SEC. 2. The word "bank" as used in this act includes every person, firm, company, copartnership or corporation which conducts the business of receiving money on deposit. Banks are divided into the following classes:

- (a) Savings banks;
- (b) Commercial banks; and
- (c) Trust companies.

SEC. 3. Corporations may be formed under the laws of this state to conduct, as provided in this act, and not otherwise, any one or all of the businesses mentioned in divisions *a*, *b* and *c* of section 2, of this act.

SEC. 4. The term "savings bank," when used in this act, means a bank organized for the purpose of accumulating and loaning the funds of its members, stockholders, and depositors, and which may loan and invest the funds thereof, receive deposits of money; loan, invest and collect the same with interest; and may repay depositors with or without interest, and having power to invest said funds in such property, securities and obligations as may be prescribed by this act; and to declare and pay dividends on its general deposits, and a stipulated rate of interest on deposits made for a stated period or upon special terms.

SEC. 5. The term "commercial bank," when used in this act, means any bank authorized by law to receive deposits of money, deal in commercial paper or to make loans thereon, and to lend money on real or personal property, and to discount bills, notes, or other commercial paper, and to buy and sell securities, gold and silver bullion, or foreign coins or bills of exchange.

SEC. 6. The term "trust company," when used in this act, means any company which is incorporated for the purpose of conducting the business of acting as executor, administrator, guardian of estates, assignee, receiver, depositary, or trustee.

SEC. 7. No foreign corporation shall transact a banking business in this state without first complying with all the requirements of the laws of this state relative to banks as defined in this act, and without having the capital paid up in this state as required by this act. And no such foreign corporation shall transact any banking business in this state until it has executed and filed with the superintendent of banks a written instrument appointing such superintendent, or his successor in office, its true and lawful attorney, upon whom all process in any action or proceeding by any resident of the state against it may be served, with the same effect as if such corporation was formed under the laws of this state and had been lawfully served with process therein. Service in favor of a resident of this state upon such attorney shall be deemed personal service on such corporation. The superintendent of banks shall forthwith forward by mail a copy of every process served upon him under the provisions of this section, postage prepaid, and directed to the secretary of such corporation, at its last known post office address. For each copy of process, the superintendent of banks shall collect the sum of two dollars, which shall be paid by the plaintiff or moving party at the time of such service, to be recovered by him as part of his taxable costs if he succeed in the suit or proceeding.

SEC. 8. Every corporation, at the time it applies for a certificate to do a banking business, must file with the superintendent of banks a certified copy of its articles of incorporation, or of the statute chartering such corporation, also all instruments amending or altering such articles of incorporation or charter. Thereafter all amendments and certificates shall likewise be so filed before such instruments take effect. In like manner all copartnerships shall file certified copies of their articles of copartnership and all amendments thereto.

SEC. 9. No bank in this state, or any officer or director thereof, shall hereafter open or keep an office other than its principal place of business, without first having obtained the written approval of the superintendent of banks to the opening of such branch office, which written approval may be given or withheld in his discretion, and shall not be given by him until he has ascertained to his satisfaction that the public convenience and advantage will be promoted by the opening of such branch office; *and, provided further*, that no bank or any officer or director thereof, shall open or maintain such branch unless the capital of such bank, actually paid in cash, shall exceed the amount required by this act by the sum of twenty-five thousand dollars for each branch office opened and maintained. Every bank, and every such officer or director violating the provisions of this section shall be guilty of a misdemeanor.

SEC. 10. No person shall be eligible for election as a director of a bank unless he is a stockholder of the bank, owning, in his

own right, shares thereof of the actual market value of at least five hundred dollars; and every person elected to be director who, after such election, shall cease to be the owner in his own right of the amount of stock aforesaid, shall then cease to be a director of the bank, and his office shall then become vacant. If a bank be organized without capital stock, no person shall be eligible as a director thereof unless he is both a member and a depositor of such bank.

SEC. 11. Each director of a bank, when appointed or elected, shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such bank, and will not knowingly violate or willfully permit to be violated any of the provisions of law applicable to such bank, and that he is the owner in good faith and in his own right of the shares of stock of the actual market value required by section 10 of this act, subscribed by him or standing in his name on the books of the bank, and that the same is not hypothecated or in any way pledged as security for any loan or debt; and, in case of re-election or re-appointment, that such stock was not hypothecated or in any way pledged as security for any loan or debt during his previous term. Such oath shall be subscribed by the director making it, and certified by the officer before whom it is taken; and shall be immediately transmitted to the superintendent of banks, and filed and preserved in his office.

SEC. 12. No person, firm, company, copartnership or corporation not subject to the supervision of the superintendent of banks, and not required to report to him by the provisions of this act, shall make use of any office sign, at the place where such business is transacted, having thereon any artificial or corporate name, or other words indicating that such place or office is the place or office of a bank, or that deposits are received there or payments made on check, or any other form of banking business transacted, nor shall such person or persons, firm, company, copartnership or corporation make use of or circulate any letterheads, billheads, blank notes, blank receipts, certificates or circulars, or any written or printed, or partly written and partly printed, paper whatever, having thereon any artificial or corporate name or other word or words indicating that such business is the business of a bank, savings bank or trust company. Every person, firm, company, copartnership or officer of a corporation violating the provisions of this section shall be guilty of a misdemeanor.

SEC. 13. Every person or number of persons, not being incorporated, engaged in the business of banking or publicly receiving money on deposits, must conduct such business under a name which shows the true name of all persons engaged therein, unless such person or persons have complied with the provisions of article 7, of chapter II, of title 10, of part IV of division 3 of the Civil Code.

SEC. 14. No bank, or any officer thereof, shall advertise in any manner, or publish any statement of the capital authorized or subscribed, unless it or he advertise and publish, in connection therewith, the amount of capital actually paid up. Any bank, or any officer thereof, advertising in any manner, or publishing any statement of such capital, authorized or subscribed, without a statement in connection therewith of the capital actually paid up, shall be guilty of a misdemeanor.

SEC. 15. The president or managing officer of every bank must, within fifteen days after the first day of January of every odd numbered year, return to the superintendent of banks a sworn statement showing the names of depositors known to be dead, or who have not made further deposits, or withdrawn any moneys during the preceding ten years. Such statements shall show the amount of the account, the depositor's last known place of residence or post office address, and the fact of death, if known to such president or managing officer. Such president or managing officer must give notice of these deposits in one or more newspapers published in or nearest to the town or city where such bank has its principal place of business, at least once a week for four consecutive weeks, the cost of such publication to be paid pro rata out of such unclaimed deposits. This section does not apply to any deposit made by or in the name of a person known to the president or managing officer to be living, or which, with the accumulation thereon, is less than fifty dollars. The superintendent of banks must incorporate in his subsequent report such returns made to him as provided in this section. Any president or managing officer of any bank who neglects or refuses to make the sworn statement required by this section shall be guilty of a misdemeanor.

SEC. 16. When any deposit with a bank shall be made by or in the name of any married woman or minor, the same shall be held for the exclusive right and benefit of such depositor, and free from the control or lien of all other persons, except creditors, and shall be paid, together with the dividends, if any, and interest, if any, thereon to the person in whose name deposits shall have been made, and the receipt or acquittance of such minor shall be a valid and sufficient release and discharge for such deposit, or any part thereof, to the bank. When any deposit with a bank shall be made by any person in trust for another, and no other or further notice of the existence and terms of a legal and valid trust shall have been given in writing to such bank, in the event of the death of the trustee, the same or any part thereof, together with the dividends or interest, if any, thereon, may be paid to the person for whom the deposit was made. When a deposit with a bank shall be made by any person in the names of such depositor and another person or persons, and in form to be paid to either or the survivor or survivors of them, such deposit thereupon, and

any additions thereto made by either of such persons upon the making thereof, shall become the property of such persons as joint tenants, and the same, together with all interest thereon, shall be held for the exclusive use of the persons so named, and may be paid to either during the lifetime of all or any or to the survivor or survivors after the death of one or more of them, and such payments and the receipt or acquittance of the one to whom such payment is made shall be a valid and sufficient release and discharge to said bank for all payments made on account of such deposit.

The surviving husband or wife of any deceased person, or, if no husband or wife is living, then the children of such decedent, and if no children are living, then the father or mother of such decedent, may, without procuring letters of administration, collect of any bank any sum which said deceased may have left on deposit in such bank at the time of his or her death; *provided*, such deposit shall not exceed the sum of five hundred dollars. Any bank, upon receiving an affidavit stating that said depositor is dead, and that affiant is the surviving husband or wife, as the case may be, or stating that decedent left no husband or wife, and that affiant is, or affiants are, the children, or the father or mother, of said decedent, and that the whole amount that decedent left on deposit in any and all banks of deposit in this state does not exceed the sum of five hundred dollars, may pay to said affiant or affiants any deposit of said decedent, if the same does not exceed the sum of five hundred dollars, and the receipt of such affiant is sufficient acquittance therefor.

SEC. 17. Every bank now in existence or hereafter organized shall keep in its offices, in a place accessible to the stockholders, depositors, and creditors thereof, and for their use, a book containing a list of stockholders in such corporation, and the number of shares of stock held by each; and every such bank shall keep posted in its office, in a conspicuous place, accessible to the public generally, a notice signed by the president or secretary, showing:

1. The names of the directors of such bank.
2. The number and the par value of the shares of stock held by each director.

The entries on such book and such notice shall be made and posted within twenty-four hours after any transfer of stock, and shall be prima facie evidence against each director and stockholder of the number of shares of stock held by each.

SEC. 18. Every copartnership doing a banking business shall keep in its office, in a place accessible to the partners and depositors and the creditors thereof, a list of the partners and the capital paid into the copartnership of each partner.

SEC. 19. The aggregate of paid up capital, together with the surplus, of every bank, must equal ten per centum of its

deposit liabilities; such deposit liabilities shall not be increased when such proportion of paid-up capital and surplus is wanting, and in no event shall said paid up capital be less than the minimum paid up capital provided by this act. *And, provided also*, that no savings bank shall be required to have a paid up capital and surplus of more than one million dollars or if organized without a capital stock, a reserve fund of more than one million dollars.

SEC. 20. Every bank, other than a savings bank, shall at all times have on hand, in lawful money of the United States, gold and silver coin, gold certificates or silver certificates, an amount equal to fifteen per centum of the aggregate amount of its deposits, exclusive of state, county and municipal deposits. The amount thus to be kept on hand shall be called its lawful money reserve. Three fifths of such lawful money reserve of any bank other than a savings bank may consist of moneys on deposit subject to call with any bank or banks other than a savings bank in this state; *provided*, that every bank receiving deposits of other banks shall maintain as a lawful money reserve at least twenty per centum of the aggregate amount of its deposits, exclusive of state, county and municipal deposits. If the lawful money reserve of any bank shall be less than the amount required by this section, such bank shall not increase its liability by making any new loans or discounts, otherwise than by discounting bills of exchange payable on sight, or making any dividends from profits until the full amount of its lawful money reserve has been restored. The superintendent of banks may notify any bank, whose lawful money reserve shall be below the amount herein required, to make good such reserve; and, if it shall fail for thirty days thereafter to make good such reserve, such bank shall be deemed insolvent and may be proceeded against under the provisions of this act.

SEC. 21. The directors of banks having a capital stock may, at such times and in such manner as the by-laws prescribe, declare and pay dividends to depositors and stockholders of so much of the profits of the bank, and of the interest arising from the capital and deposits, as may be appropriated for that purpose under the by-laws or under their agreements with depositors, but every such bank shall, before the declaration of such dividend, carry at least one tenth (1-10) part of the net profits of the stockholders for the preceding half year to its surplus or reserve fund until the same shall amount to twenty-five per centum of its paid-up capital stock. But the whole or any part of such surplus or reserve fund, if held as the exclusive property of stockholders, may at any time be converted into paid-up capital stock, in which event such surplus or reserve fund shall be restored in manner as above provided until it amounts to twenty-five per centum of the aggregate paid-up capital stock. A larger surplus or reserve fund may

be created, and nothing herein contained shall be construed as prohibitory thereof. The capital and the assets of the bank are a security to depositors and stockholders, depositors having the priority of security over the stockholders, but the by-laws may provide that the same security shall extend to deposits made by stockholders.

SEC. 22. Any corporation authorized by its articles of incorporation so to do, may combine the business of a commercial bank and savings bank and trust company, or any or all of them.

SEC. 23. Every bank doing a department business, shall have paid up in cash a capital stock of not less than twenty-five thousand dollars if it transacts both a commercial and savings business; and paid up in cash a capital stock of not less than two hundred twenty-five thousand dollars if it transacts both a commercial and trust business; and paid up in cash a capital stock of not less than two hundred twenty-five thousand dollars if it transacts both a savings and trust business; and paid up in cash a capital stock of not less than two hundred twenty-five thousand dollars if it transacts a commercial, savings and trust business. Such capital stock shall be increased from time to time in the same manner and to the same extent as provided for in section nineteen of this act.

SEC. 24. Every bank, before it commences to do business or before it opens a new department and commences to transact business in or under such new department, shall obtain the certificate of the superintendent of banks for the opening of each of the departments specified. Each certificate herein provided for shall be given when the superintendent shall, by the examination required by this act, have satisfied himself that the proper amount of cash has been paid in as capital and the provisions of this act complied with. The applicant shall pay for such certificate a fee of fifty dollars.

SEC. 25. Every bank shall maintain for each department a lawful money reserve equal in amount to that required by this act for the respective business conducted, and shall keep separate and distinct the lawful money reserve of any department from that of any other department; and all deposits made with other banks, whether temporary or otherwise, shall be assets of the respective departments by which they were made, and shall be so carried on the books of such other banks, and shall be repaid only upon the order of the department to whose credit they stand.

No department shall receive deposits of any other department of the same corporation; *provided, however*, that any bank having departments shall have the right to sell and transfer any bonds, securities or loans from one department to another upon receipt of the actual value thereof, if such bonds, securities or loans are a legal investment for the department purchasing the same under the provisions of this act.

SEC. 26. Every bank having different departments shall keep separate books of account for each department of its business, and shall be governed as to all deposits, reserves, investments and transactions relating to each department by the provisions in this act specifically provided for the respective kind of business.

It shall keep all investments relating to the savings department entirely separate and apart from the investments of its other department or departments.

Every bank shall conduct the business of all its departments in one building, or in adjoining buildings, and shall keep entirely separate and apart in each department the cash, securities and property belonging to such department, and shall not mingle the cash, securities and property of one department with that of another.

SEC. 27. All money belonging to each department, whether cash on hand or with other banks, and the investments made, shall be held solely for the repayment of the depositors in said department, until all depositors of such department shall have been paid, and the overplus then remaining shall be applied to the other liabilities of such bank.

SEC. 28. Every individual, firm or corporation doing a banking business in this state must, on all its window-signs and in advertising, and on letterheads and other stationery on which its business is transacted, use the word "savings" if it conducts a savings business, or the word "trust" if it conducts a trust department, and the word "commercial" if it conducts a commercial department.

SEC. 29. Every corporation heretofore created under the laws of this state, doing a banking business therein, and which has no capital stock, may elect to have a capital stock, and may issue certificates of stock therefor, in the same manner as corporations formed under the provisions of part IV, title I, chapter I, article I, of the Civil Code, relating to the formation of corporations; *provided*, that no such corporation shall use or convert any moneys or funds theretofore belonging to it, or under its control, into capital stock; but such funds or moneys must be held and managed only for the purposes and in the manner for which they were created. Before such change is made, a majority of the members of such corporation present at a meeting called for the purpose of considering the proposition whether it is best to have a capital stock, its amount, and the number of shares into which it shall be divided, must vote in favor of having a capital stock, fix the amount thereof, and the number of shares into which it shall be divided. Notice of the time and place of holding such meeting, and its object, must be given by the president of such corporation by mailing notice of such meeting to each member of such corporation at his last known post office address at least ten

days prior to the day fixed for such meeting, and by publication in some newspaper printed and published in the county, or city and county, in which the principal place of business of the corporation is situated, at least once a week for three successive weeks prior to the holding of the meeting. A copy of the proceedings of this meeting, giving the number of persons present, the votes taken, the notice calling the meeting, the proof of its publication, the amount of capital actually subscribed, and by whom, all duly certified by the president and secretary of the corporation, must be filed in the office of the secretary of state and clerk of the county where the articles of incorporation are filed. Thereafter such corporation is possessed of all the rights and powers, and is subject to all the obligations, restrictions, and limitations, as if it had been originally created with a capital stock.

SEC. 30. Any bank may conduct a safe deposit department, but shall not invest more than one tenth of its capital and surplus in such safe deposit department.

SEC. 31. Any bank may sell the whole or any portion of its assets to any other bank which may purchase its assets after obtaining the consent of the stockholders of the selling and of the purchasing bank holding of record at least two thirds of the issued capital stock of each of such corporations; such consent to be expressed either in writing executed and acknowledged by such stockholders and attached to the instrument of sale, or to a copy thereof, or by vote at a stockholders' meeting of such banks called for that purpose.

The selling and purchasing banks may for such purposes enter into an agreement of sale and purchase, which agreement shall contain all the terms and conditions connected with the sale and purchase of its assets.

Such agreement shall contain proper provision for the payment of liabilities of the selling bank, and in this particular shall be subject to the approval of the superintendent of banks; and shall not be valid until such approval is obtained. Such agreement may contain provisions for the transfer of all deposits to the purchasing bank, subject, however, to the right of every depositor of the selling bank to withdraw his deposit in full on demand after such transfer, irrespective of the terms under which it was deposited with the selling bank.

SEC. 32. Any bank receiving trust funds in accordance with the provisions of this act relating to trust companies must not mingle such trust funds with the other assets of the corporation, and such funds shall not be carried or counted as any part of the lawful reserve provided for in this act. The officers of any bank who knowingly violate or consent to the violation of this provision shall be guilty of a felony.

SEC. 33. No officer or employee of any bank shall, directly

or indirectly, for himself or as the partner or agent of others, borrow any of the deposits or other funds of such bank, nor shall he nor any director become an endorser or surety for loans to others nor in any manner be obligor for moneys borrowed or loaned by such bank. The office of any officer or employee who acts in contravention of the provisions of this section shall immediately become vacant, and he shall be guilty of a misdemeanor.

SEC. 34. No bank shall purchase or invest its capital or money of its depositors, or any part of either, in the shares of its own capital stock; nor loan its capital or the money of its depositors, or any part of either, on the shares of its own capital stock, unless such purchase or loan shall be necessary to prevent loss on debts previously contracted in good faith.

Stock thus purchased or carried shall, within six months from the time of its purchase, be sold or disposed of at public or private sale.

The officers of any bank who knowingly violate or consent to the violation of this provision shall be guilty of a felony.

SEC. 35. No director, or officer, or employee, or controlling stockholder of any bank shall, directly or indirectly, for himself or as the partner or agent of others, sell or transfer, or cause to be sold or transferred to the bank of which he is a director, officer, employee, or controlling stockholder, any mortgage on real estate or contract arising from the sale of real estate made by any corporation or syndicate in which such director or officer, or employee, or controlling stockholder is personally or financially interested, without the consent in writing of the superintendent of banks.

Any director, or officer, or employee, or controlling stockholder of any bank who knowingly violates or consents to the violation of this provision shall be deemed guilty of a felony.

SEC. 36. No bank receiving deposits of money shall purchase, agree to purchase, underwrite or guarantee any bond issue in excess of five per centum of its assets, except bonds of the United States, of the State of California, of the cities, cities and counties, counties or school districts of this state.

SEC. 37. No bank shall purchase, or invest its capital or money of its depositors, or any part of either, in shares of corporations, unless such purchase shall be necessary to prevent loss on debts previously contracted in good faith, and stock thus purchased or carried shall, within six months from the time of its purchase, be sold or disposed of at public or private sale, unless permission to hold said stock for a longer period shall be obtained from the superintendent of banks.

The officers of any bank who knowingly violate or consent to the violation of this provision shall be deemed guilty of a felony.

SEC. 38. A director, officer, agent or employee of any bank who,

First—Knowingly receives or possesses himself of any of its property otherwise than in payment for a just demand, and with intent to defraud, omits to make or to cause or direct to be made a full and true entry thereof in its books and accounts; or,

Second—Concurs in omitting to make any material entry thereof; or,

Third—Knowingly concurs in making or publishing any written report, exhibit or statement of its affairs or pecuniary condition containing any material statement which is false; or,

Fourth—Having the custody or control of its books, willfully refuses or neglects to make any proper entry in the books of such corporation as required by law, or to exhibit or allow the same to be inspected and extracts to be taken therefrom by the superintendent of banks, his chief deputy or any of his examiners, shall be guilty of a felony.

SEC. 39. Any officer, director, agent, teller, clerk or employee of any bank who either,

First—Knowingly overdraws his account with such bank, and thereby obtains the money, notes or funds of any such bank; and,

Second—Asks or receives or consents or agrees to receive any commissions, emolument, gratuity or reward, or any money, property or thing of value or of personal advantage, for procuring or endeavoring to procure for any person, firm or corporation any loan from, or the purchase or discount of any paper, note, draft, check or bill of exchange, by such bank, or for permitting any person, firm or corporation to overdraw any account with such bank, is guilty of a felony.

SEC. 40. No bank mentioned in this act shall make any contract with any of its depositors whereby the stockholders' liability provided for by the constitution of this state is in any manner waived, and if any such contract shall be so made, such contract shall be void.

SEC. 41. No director, officer, agent, or servant of any bank shall, directly or indirectly, for his own personal benefit, purchase or be interested in the purchase of any of the obligations of said bank for a less sum than shall appear upon the face thereof.

SEC. 42. No director, officer, agent, or servant of any bank shall, directly or indirectly, for his own personal benefit, purchase or be interested in the purchase of any of the assets of said bank, for a less sum than the current market value thereof. Every person violating the provisions of this subdivision shall be guilty of a misdemeanor.

SEC. 43. No bank shall deposit any of its funds with any other bank, unless such other bank has been designated as a

depository for its funds by the vote of a majority of the directors or trustees of the bank making the deposits, exclusive of the vote of any director or trustee who is an officer, director or trustee of the depository so designated.

SEC. 44. No bank shall hereafter make a loan secured by the stock of another bank, if by making such loan the total stock of such other bank held by such loaning bank as collateral will exceed in the aggregate ten per centum of the capital stock of such other bank; *provided* that no loan upon the capital stock of any bank shall be made unless such bank has been in existence for two or more years and has earned and paid a dividend upon its capital stock.

SEC. 45. Interest unpaid, although due or accrued, on debts owing to any bank, shall not be included in calculation of its profits previous to a dividend.

SEC. 46. No bank shall invest or loan more than five per centum of its assets in any one bond issue, except bonds of the United States, of the State of California, of the counties, cities and counties, cities or school districts of this state.

SEC. 47. No bank shall make any loan on real estate except it be a first lien, but this provision shall not prevent the acceptance of a second lien to secure the payment of a debt previously contracted in good faith.

SEC. 48. Any national bank of this state receiving the deposits of banks organized and conducting business under this act, must, at the request of the superintendent of banks, submit to an examination by him, or his duly appointed examiners, should the superintendent of banks in his discretion deem it necessary or desirable that such examination be made; and the expense of such examination shall be paid by such national bank; and if any such national bank shall refuse to permit such examination to be made by the superintendent of banks, then the superintendent of banks shall notify in writing any and all banks depositing its funds with such national bank, to withdraw its deposits therefrom, and such bank shall comply with such order, and failure so to do shall be a misdemeanor.

SEC. 49. It shall not be lawful for any commercial bank, individual banker, trust company, association, firm, stock company, or corporation, to advertise or put forth a sign as a savings bank, either directly or indirectly, or in any way to solicit or receive deposits as a savings bank, except in the case of savings banks or banks having a savings department, subject to the provisions of this act.

SEC. 50. Every bank shall post in a conspicuous place in its banking room the last certificate obtained from the superintendent of banks, as provided for in section 127 of this act. Every bank that fails to comply with the provisions of this section is guilty of a misdemeanor.

SEC. 51. Any court having appointed and having jurisdiction of any executor, administrator, guardian, assignee, receiver, depository or trustee, upon the application of such executor, administrator, guardian, assignee, receiver, depository or trustee, or upon the application of any person having an interest in the estate administered upon by such officer or trustee, after notice to other parties in interest as the court may direct, and after a hearing upon such application, may authorize such officer or trustee to deposit any money then in his hands as such officer or trustee or which may thereafter come into his hands, and until the further order of the court, in any bank organized under the laws of the State of California; and upon such deposit being made, the officer or trustee so depositing the same shall thereafter and while such moneys remain on deposit in such bank, be relieved and discharged from all liability and responsibility therefor, and the bond required of such officer or trustee given upon his appointment shall be thereupon by said court reduced to such an amount as the court may deem reasonable; such deposit shall be repaid only upon the orders of said court, and shall be a preferred claim against such bank and be paid in full before any other depositor of such bank shall have been paid.

ARTICLE II.

SAVINGS BANKS.

SEC. 60. Every savings bank must have actually paid in a capital stock of not less than twenty-five thousand dollars, or, if organized without capital stock, a reserve fund of at least one million dollars and until said sum of twenty-five thousand dollars or said sum of one million dollars shall be actually paid in, the superintendent of banks shall refuse to issue the certificate required by this act; *provided* that nothing herein shall be construed to affect the provisions of section twenty-three of this act relative to the capital stock required of banks doing a departmental business.

SEC. 61. Savings banks may purchase, hold and convey real and personal property as follows:

1. The lot and building in which the business of the bank is carried on; such lot and building shall not cost the savings bank an amount exceeding its capital and surplus; and the authority of a two-thirds vote of a full board of directors shall be necessary to authorize the purchase or construction thereof.

2. Such as may have been mortgaged, pledged, or conveyed to it in trust for its benefit in good faith, for money loaned in pursuance of the regular business of the corporation.

3. Such as may have been purchased at sales under pledges,

mortgages or deeds of trust made for its benefit for money so loaned, and such as may be conveyed to it by borrowers in satisfaction and discharge of loans made thereon.

No savings bank shall purchase, hold, or convey real estate in any other case or for any other purpose; and all real estate described in subdivision 3 of this section must be sold by the bank within ten years after the title thereto is vested in it by purchase or otherwise, unless permission to hold said real estate for a longer period be given by the superintendent of banks in writing. Parcels of real estate not sold within ten years, or extension of said period as above provided, may be purchased by any persons or parties wanting them, at the price to be determined by arbitration of three persons appointed by the superior court as appraisers, at the request of the would-be purchaser.

No savings bank shall purchase, own, or sell personal property, except such as may be requisite for its immediate accommodation for the convenient transaction of its business; and mortgages on real estate, bonds, securities or evidences of indebtedness, public or private, gold and silver bullion and United States mint certificates of ascertained value, and evidences of debt issued by the United States.

No savings bank shall purchase, hold or convey bonds, securities or evidences of indebtedness, public or private, except as follows:

(a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith of the United States is pledged for the payment of interest and principal.

(b) Bonds of this state.

(c) Bonds of any state in the United States that have not, within five years previous to making such investment by such bank, defaulted in the payment of any part of either principal or interest thereof.

(d) Bonds of any city, county, city and county, town, township or school district of this state.

(e) Bonds of any city, town or county which has in each case, at the time of the investment, more than twenty thousand inhabitants, as ascertained by the United States or state census made next preceding such investment, in any of the states of the United States, other than in the State of California, issued pursuant to the authority of any law of such states; *provided*, the entire bonded indebtedness of such city or county or town shall not exceed five per centum of the assessed value of the taxable property therein, including the issue of bonds in which said investment is made as shown by the last assessment preceding the investment; *and provided further*, that such city, town or county or state in which it is situated has not defaulted in the payment of any part of either principal or interest thereon within five years previous to making such investment.

(f) First mortgage or underlying bonds of any steam railway, the income of which is sufficient to pay all operating expenses and fixed charges, and which is completed and operated, wholly or in part, in any of the states of the United States.

(g) Bonds of street railroads, water, light, light and power, gas, and other public utility and industrial corporations. All bonds authorized for investment by this section shall be secured by a mortgage or trust deed, which is, at the time of making such investment, (1) a first or underlying mortgage or trust deed of the corporation issuing said bonds, or (2) a refunding mortgage or trust deed used to retire all prior lien mortgage debts of said corporation outstanding at the time of making said investment; *provided*, that the income of such corporation is sufficient to pay all operating expenses and fixed charges and such income shall have been so sufficient for the term of three years preceding the issuance of such bonds, or that payment of its said bonds have been guaranteed by a corporation that has paid all its operating expenses and fixed charges for a period of three years prior to guaranteeing the payment of such bonds.

(h) First mortgage bonds or deeds of trust issued by real estate corporations; *provided*, that said bond issue shall not exceed sixty per centum of the market value of the real estate taken as security.

No savings bank shall purchase the bonds of any corporation or make a loan on the bonds of any corporation, if the franchise of such corporation expires prior to the maturity of its bonds, or if the franchise or special privilege granted to such corporation by any city, county, or city and county, expires before the maturity of such bond issue.

SEC. 62. No savings bank shall, directly or indirectly, deal or trade in real or personal property in any other case or for any other purpose than is authorized by this act, and shall not contract any debt or liability for any purpose whatever other than for deposits, except as in this section provided.

Savings banks may pay regular depositors, when requested by them, by draft upon deposits to the credit with their banks, and charge current rate of exchange for such drafts.

No savings bank shall borrow money, or pledge or hypothecate any of its securities, except to meet the immediate demands of its own depositors, and then only in pursuance of a resolution adopted by a vote of a majority of its board of directors, duly entered upon their minutes, wherein shall be recorded the ayes and nays upon each vote; also with the written approval of the superintendent of banks, and he shall have the authority to fix the amount to be borrowed, and the term and rate of

interest thereon; *provided, however*, that savings banks may, in the manner authorized by law, and without the written approval of the superintendent of banks, borrow the public moneys of the state, counties, cities and counties, and towns and receive such public moneys on deposit.

SEC. 63. Savings banks may issue general certificates of deposit, which are transferable, as in other cases, by indorsement and delivery; may issue, when requested by the depositor, special certificates, acknowledging the deposit by the person therein named of a specified sum of money, and expressly providing on the face of such certificate that the sum so deposited and therein named may be transferred only on the books of the bank; payment thereafter made by the bank to the depositor named in such certificate, or to his assignee named upon the books of the bank, or in case of death, to the legal representative of such person, of the sum for which such special certificate was issued, shall discharge the bank from all further liability on account of the money so paid.

All time certificates of deposit, issued by a savings bank, shall be subject to the same limitations and conditions as applied to other deposits, and notice thereof shall be given by the words "Subject to conditions of agreement with depositors" printed on the face of the certificate issued.

SEC. 64. Savings banks may prescribe by their by-laws, or by contract with depositors, the time and conditions on which repayment is to be made to depositors, except as in this act otherwise prohibited; but whenever there is any call by depositors for repayment of a greater amount than the bank may have disposable for that purpose, the directors or officers thereof must not make any new loans or investments of the funds of the depositors, or of earnings thereof, until such excess of call has ceased. The directors of any such bank, having no capital stock, must retain, on each dividend day, at least ten per centum of the net profits of the bank, to constitute a reserve fund, which must be invested in the same manner as other funds of the bank, and must be used toward paying any losses which the bank may sustain in pursuing its lawful business. The bank may provide by its by-laws for the disposal of any excess in the reserve fund, as provided for in section 21 of this act, and the final disposal, upon the dissolution of the bank, of the reserve fund, or of the remainder thereof, after payment of losses.

SEC. 65. No director, or officer of any savings bank must, directly or indirectly, for himself or as the partner or agent of others, borrow any of the deposits or other funds of such bank, nor must he become an endorser or surety for loans to others, nor in any manner be obligor for moneys borrowed of or loaned by such bank. The office of any director or officer

who acts in contravention of the provisions of this section immediately thereupon becomes vacant, and every director or officer authorizing or consenting to such loan, and the person who receives such loan, shall severally be guilty of a misdemeanor.

SEC. 66. Receiving deposits, issuing certificates of deposit, checks, and bills of exchange, and the like, in the transaction of the business of savings banks, must not be construed to be the creation of debt within the meaning of the phrase "create debt" in section three hundred and nine of the Civil Code and as provided for in this act.

SEC. 67. 1. No savings bank shall loan money except on adequate security of real or personal property, and no such loan shall be made for a period longer than ten years; *provided* that no loans shall be made on unsecured notes.

2. No savings bank shall invest or loan more than five per centum of its assets on any one bond issue, except bonds of the United States, of the State of California, of the counties, cities and counties, cities or school districts of this state.

3. No savings bank shall loan money to exceed ninety per centum of the market value of bonds specified in subdivisions (a), (b), (c) and (d) of subdivision three of section sixty-one of this act, and no more than eighty-five per centum of the market value of bonds specified in subdivision (e) of subdivision three of section sixty-one of this act, and no more than seventy-five per centum of the market value of bonds specified in subdivisions (f) and (g) of subdivision three of section sixty-one of this act, and no more than sixty-five per centum of the market value of personal property and stocks of corporations or banks; *provided, however*, that no loan shall be made upon the capital stock of any corporation or bank unless such corporation or bank has been in existence for two or more years and has earned and paid a dividend on its capital stock.

4. No savings bank shall make any loan on the security of real estate except it be a first lien and in no event to exceed sixty per centum of the market value of any piece of real estate to be taken as security, except for the purpose of facilitating the sale of property owned by the savings bank; *provided*, that a second lien may be accepted to secure the repayment of a debt previously contracted in good faith.

5. No savings bank shall purchase, invest or loan its capital or the money of its depositors, or any part of either, in mining shares or stock.

6. No savings bank shall hereafter make a loan secured by the stock of another bank, if by making such loan the total stock of such other bank held by such loaning bank as collateral will exceed in the aggregate ten per centum of the capital stock of such other bank.

Any president or managing officer who knowingly consents

to a violation of the above provisions shall be deemed guilty of a felony.

SEC. 68. Savings banks must carry in cash, or its equivalent, an amount equal to four per centum of its deposit liabilities, of which two per centum of such liabilities shall be in coin or currency of standard value in its own keeping. The amount thus carried shall be called the lawful money reserve.

No new loans shall be made during any deficiency in the lawful money reserve.

Deposits with commercial banks and trust companies, on open account, to facilitate business transactions, as provided in this section, shall be permitted, and shall not be construed as loans.

Not more than five per centum of the deposits of any savings bank shall be deposited with any one bank.

SEC. 69. Every savings bank, and the business of every savings department of every other bank, must be conducted under and in accordance with the provisions of this act.

ARTICLE III.

COMMERCIAL BANKS.

SEC. 80. No commercial bank shall make any loans to any person, company, corporation or firm to an amount exceeding one tenth part of the capital stock of such bank actually paid in and surplus; *provided, however*, that a bank may loan to any person, company, corporation or firm a sum not exceeding twenty-five per centum of its capital stock actually paid in and surplus upon security worth at least fifteen per centum more than the amount of its loans; or it may loan ten per centum of such capital and surplus as first above provided, and a further sum not exceeding fifteen per centum of such capital and surplus upon security worth at least fifteen per centum more than the amount of such loan so secured; except that a commercial bank may buy from, or discount, for any person, company, corporation or firm, or loan upon bills of lading, warehouse receipts and bills of exchange, drawn in good faith against actual existing value or against commercial or business paper actually owned by the person negotiating the same.

SEC. 81. No loan shall be made by any commercial bank upon the securities of one or more corporations, the payment of which is undertaken, in whole or in part, severally, but not jointly, by two or more individuals, firms, or corporations:

(a) If the borrowers or underwriters be obligated absolutely or contingently to purchase the securities, or any of them, collateral to such loan, unless the borrowers or underwriters shall have paid on account of the purchase of such

securities an amount in cash, or its equivalent, equal to at least twenty-five per centum of the several amounts for which they remain obligated in completing the purchase of such securities;

(b) If the commercial bank making such loan be liable, directly or indirectly, or contingently, for the repayment of such loan or any part thereof;

(c) If its term, including any renewal thereof by agreement, express or implied, exceed the period of one year;

(d) Or to an amount under any circumstances in excess of twenty-five per centum of the capital and surplus of the commercial bank making such loan.

SEC. 82. Every commercial bank which is now transacting, or which may hereafter transact business, shall have actually paid in a capital stock of not less than twenty-five thousand dollars; and until said sum of twenty-five thousand dollars shall be actually paid in, the superintendent of banks shall not issue the certificate required by section twenty-four of this act; *provided* that nothing herein shall be construed to affect the provisions of section twenty-three of this act relative to the capital stock required of banks doing a departmental business.

SEC. 83. No commercial bank shall loan any of its funds to any of its directors unless such loan shall first have been approved by a two-thirds vote of its board of directors, on which vote the borrowing director shall not participate, and the fact of making such loan, the name of the director borrowing the same, the time when the same shall become due, the rate of interest thereon, and the amount, value, and character of the security pledged therefor, if any, shall be forthwith forwarded by the cashier of such bank to the superintendent of banks; and if the superintendent of banks shall disapprove of such loan, he shall immediately notify such bank of his disapproval thereof, and such bank shall forthwith collect such loan; *provided, however*, that the total loans to all directors of such bank shall not at any one time exceed thirty per cent of the capital and surplus of such bank; *and provided, further*, that each bank having any loan or loans outstanding to any of its directors shall once each month report in writing to the superintendent of banks the name of each director to whom such loan is made, the amount of such loan, the rate of interest thereon, the time when the same shall fall due, and the security pledged therefor, if any. Any officer or director of any commercial bank violating any of the provisions of this section shall be guilty of a felony.

ARTICLE IV.

TRUST COMPANIES.

SEC. 90. Any corporation which has been or shall be incorporated under the general incorporation laws of this state, authorized by its articles of incorporation to act as executor, administrator, guardian, assignee, receiver, depositary or trustee, and having a capital of not less than two hundred thousand dollars actually paid in, in cash, may be appointed to act in such capacity in like manner as individuals and shall be known as a trust company. In all cases in which it is required that an executor, administrator, guardian, assignee, receiver, depositary or trustee, shall qualify by taking and subscribing an oath, or in which an affidavit is required, it shall be a sufficient qualification by such corporation if such oath shall be taken and subscribed or such affidavit made by the president or secretary or manager or trust officer thereof, and such officer shall be liable for the failure of such trust company to perform any of the duties required by law to be performed by individuals acting in like capacity and subject to like penalties; and such trust company shall be liable for such failure to the full amount of its capital stock; *provided*, any such appointment as guardian shall apply to the estate only, and not to the person. Such trust company shall be entitled to and shall be allowed proper compensation for all the services performed by them under the foregoing provisions of this act; but such compensation shall not exceed that allowed to natural persons for like services.

SEC. 91. Any court, having appointed and having jurisdiction of any executor, administrator, guardian, assignee, receiver, depositary, or trustee, upon the application of such officer or trustee, or upon the application of any person having an interest in the estate administered by such officer or trustee, after notice to the other parties in interest as the court may direct, and after a hearing upon such application, may authorize such officer or trustee to deposit any moneys then in his hands, or which may come into his hands thereafter, and until the further order of said court, with any such trust company; and upon deposit of such money, and its receipt and acceptance by such trust company, the said officer or trustee shall be discharged from further care or responsibility therefor. Such deposits shall be paid out only upon the orders of said court.

SEC. 92. It shall be lawful for any public administrator to deposit with any trust company having not less than two hundred thousand dollars paid-up capital, doing business in the county, or city and county, in which he is acting as such administrator, any and all moneys of any estate upon which

he is administering, not required for the current expenses of the administration; *provided* that such corporation deposit with the state treasurer the securities required by this act. Such deposits shall relieve the public administrator from depositing with the county treasurer the moneys so deposited with such corporation. Moneys so deposited by a public administrator may be drawn, upon the order of such administrator, countersigned by a judge of a superior court, when required for the purpose of administration, or otherwise.

SEC. 93. Whenever, in the judgment of any court having jurisdiction of any estate in process of administration by any executor, administrator, guardian, assignee, receiver, depository, or trustee, and after such notice to the parties in interest as the court shall direct, and after a hearing on such application, the said court may order the said officer or trustee to deposit with any such trust company, for safe-keeping, such portion or all of the personal assets of said estate as it shall deem proper; and thereupon said court shall, by an order of record, reduce the bond to be given or theretofore given by such officer or trustee, so as to cover only the estate remaining in the hands of said officer or trustee; and the property as deposited shall thereupon be held by such trust company, under the orders and directions of said court. Any court having jurisdiction of an estate being administered by a public administrator, may direct such public administrator to deposit all or any part of the moneys of the estate not required for the current expenses of the administration, with any such trust company doing business in the county, or city and county, where such public administrator is acting.

SEC. 94. Such trust company shall not be required to give any bond or security in case of any appointment hereinbefore provided for, except as hereinafter provided, but shall be responsible for all investments which shall be made by it of the funds which may be entrusted to it for investment by such court, and shall be liable as natural persons in like positions now are, and as hereinafter provided.

SEC. 95. Such trust company shall pay interest upon all moneys held by it as trustee, by virtue of this act, at such rate as may be agreed upon at the time of its acceptance of any such appointment, or as shall be provided by the order of the court.

SEC. 96. Each trust company, before accepting any such appointment or deposit, shall deposit with the treasurer of state, for the benefit of the creditors of said trust company, the sum of one hundred thousand dollars (\$100,000), in bonds of the United States, or municipal bonds of this state, or of any county, or city, city and county, or school district thereof, or in mortgages on improved and productive real estate in this state, being first liens thereon, and the real estate being worth

at least twice the amount loaned thereon; said bonds or mortgages to be approved by the superintendent of banks. The bonds and securities so deposited may be exchanged from time to time for other securities, receivable as aforesaid. Said bonds of the United States, or municipal bonds of this state, or of any county, city, city and county, or school district thereof, to be registered in the name of said treasurer, officially, and all said securities to be subject to sale and transfer, and to the disposal of the proceeds by said treasurer, only on the order of a court of competent jurisdiction and as hereinafter provided. The state shall be responsible for the safe return of such securities deposited with the treasurer of the state under this section.

SEC. 97. Any such trust company, having a paid-up capital in excess of two hundred thousand dollars, may be permitted by the superintendent of banks to mortgage any improved and productive real estate owned by it, in excess of said amount, to the treasurer of state, for such sum as the said superintendent of banks may determine, and such mortgage may be deposited with said treasurer, and when so deposited it shall be included in the amount of securities hereinabove required to be deposited with said treasurer for the benefit of the creditors of said trust company.

SEC. 98. So long as the trust company so depositing shall continue solvent, it shall be permitted to receive from said treasurer the interest or dividends on said deposits, and whenever any trust company receives trust funds as such trustee in excess of five hundred thousand dollars, it shall deposit with the state treasurer securities mentioned in section 96 of this act, to be approved by the superintendent of banks, in the amount of another one hundred thousand dollars, and for each five hundred thousand dollars of such trust funds thereafter received, an additional deposit of fifty thousand dollars of such securities likewise approved shall be made with the said state treasurer; *provided, however*, that no trust company shall be required to deposit more than one million dollars of such securities.

The state shall be responsible for the safe return of such securities deposited with the treasurer of the state under this section.

SEC. 99. When any part of such deposit with the state treasurer is made in bonds and mortgages, it shall be accompanied by full abstracts of titles and searches, or by certificates of title issued by a person, company or corporation, whose business or objects are to make searches of titles and issue certificates of titles, and which said person, company or corporation shall be one designated or approved by said superintendent of banks, and shall be examined and approved by or under the direction of the said superintendent of banks.

The fees for an examination of title by counsel to be paid by the trust company making the deposit, shall not exceed twenty dollars for each mortgage, and the fee for each appraiser, not exceeding two, besides expenses, shall be five dollars for each mortgage.

SEC. 100. Before the superintendent of banks issues his certificate to any trust company, there must be filed in his office the affidavit of a majority of its board of directors or the persons named in said articles as the first directors of the corporation that at least two hundred thousand dollars of the capital stock has actually been subscribed and paid in to a person named in such affidavit for the benefit of the corporation.

SEC. 101. On making the report required by the terms of this act, every trust company shall, in addition to the other facts to be reported on, furnish a list and brief description of the trusts held by such corporation, the source of the appointment thereto, and the amount of real and personal estate held by such trust company by virtue thereof; except that mere mortgage trusts, wherein no action has been taken by such corporation, shall not be included in such statement.

SEC. 102. Any trust company which desires to retire from business under this act, shall furnish to the superintendent of banks satisfactory evidence of its release and discharge from all the obligations and trusts hereinbefore provided for; whereupon he shall revoke his certificate to such trust company, and thereupon the treasurer of state shall return to said trust company all its securities.

SEC. 103. Except as herein otherwise provided, any trust company exercising the powers and performing the duties provided for in this act, shall keep inviolate all communications confidentially made to it touching the existence, condition, management and administration of any trusts confided to it; and no creditor or stockholder of any such trust company shall be entitled to disclosure of any such communication; *provided, however,* that the president, manager and secretary of such trust company shall be entitled to knowledge of such communication; *and provided, further,* that in any suit or proceeding touching the existence, condition, management or administration of such trust, the court wherein the same is pending may require disclosure of any such communication.

SEC. 104. The use of the word "trust" in combination with or in connection with the word "company," "corporation," "incorporation," "association," "society," "organization," or "syndicate," is hereby prohibited to all persons, firms, associations, companies or corporations other than corporations provided for by this act. Every person, firm, association, company, or corporation which uses the word "trust" in combination with or in connection with the word "company,"

“corporation,” “incorporation,” “association,” “society,” “organization,” or “syndicate,” as the name under which business is done or transacted, shall be subject to the provisions of this act and to the supervision of the superintendent of banks. Any person, firm, association, company, or corporation making use of the word “trust” in combination or in connection with the word “company,” “corporation,” “incorporation,” “association,” “society,” “organization,” or “syndicate,” in the manner hereinabove mentioned, in the transaction of business, and not subject to the provisions of this act and the supervision of the superintendent of banks, shall be guilty of a misdemeanor.

No corporation hereafter formed shall use the word “trust” or “trustee” as a part of its corporate name unless it shall be authorized by its articles of incorporation to act as executor, administrator, guardian, assignee, receiver, depository or trustee; nor shall any corporation hereafter formed accept or execute any trust mentioned in this act, unless it shall have complied with the provisions of this act.

SEC. 105. Every trust company shall invest its capital and trust funds received by it in accordance with the laws relative to the investment of funds deposited with savings banks, unless a specific agreement to the contrary is made between the trust company and the party creating the trust.

SEC. 106. Every trust company desiring to do or doing a commercial banking business or a savings bank business, or both, in addition to its trust business, shall have paid up in cash the capital as provided in section twenty-three of this act. Such capital for each such department shall be increased from time to time in the same manner and to the same extent as though such bank were conducting separate banks instead of separate departments.

Every trust company doing a departmental business shall comply with the provisions of this act governing each of such departments as to its deposits, reserves, investments and loans.

ARTICLE V.

STATE BANKING DEPARTMENT.

SEC. 120. There is hereby created a state banking department. The chief officer of such department shall be the superintendent thereof, and be known as the superintendent of banks. He shall be appointed by the governor, and shall hold his office for a term of four years, or until his successor shall have been appointed and qualified. No person shall be appointed superintendent of banks who has not had active banking experience, either as executive officer or director of some commercial bank, savings bank or trust company, at least

one half of which experience has been had in this state. He shall not, either directly or indirectly, be interested in any commercial bank, savings bank or trust company, or as an individual banker. He shall receive an annual salary of ten thousand dollars, to be paid monthly out of the state treasury on a warrant of the controller. He shall, within fifteen days from the time of notice of his appointment, take and subscribe to the constitutional oath of office, and file the same in the office of the secretary of state, and execute to the people of the state a bond in the penal sum of fifty thousand dollars, with corporate surety or two or more sureties to be approved by the governor of the state, conditioned for the faithful discharge of the duties of his office.

SEC. 121. The superintendent of banks shall employ a chief deputy, attorney and such clerks and examiners as he may need to discharge in a proper manner the duties imposed upon him by law, none of which examiners or clerks or attorney shall be interested in any bank in this state as director, stockholder, officer or employee; they shall perform such duties as he shall assign to them. He shall fix the compensation of the attorney, clerks, and examiners, which compensation shall be paid monthly, on his certificate and on the warrant of the controller, out of the state treasury. The chief deputy shall, within fifteen days from the time of his appointment, take and subscribe to the constitutional oath of office, and file the same in the office of the secretary of state, and his compensation shall be four thousand dollars per annum; *provided, however*, that the total expenditure provided for in this act shall not exceed seventy-five thousand dollars per annum.

No person shall be appointed a chief deputy who has not had at least three years' active banking experience, either as an executive officer or employee of some bank in this state. In case of the absence or inability to act, or vacancy in the office of superintendent of banks for thirty consecutive days, the chief deputy shall execute to the people of the state a bond in the penal sum of fifty thousand dollars, with corporate surety or two sureties to be approved by the controller and treasurer of the state, conditioned for the faithful discharge of the duties of the superintendent while such deputy acts as superintendent, and upon filing such bond such deputy shall have all the power and duties of superintendent of banks, until the inability of the superintendent shall be removed, or until a new superintendent of banks shall have been appointed by the governor. No superintendent of banks, chief deputy or bank examiner shall be or shall become indebted, directly or indirectly, either as borrower, endorser, surety, or guarantor to any bank under his supervision or subject to his examination.

SEC. 122. The superintendent of banks shall have his principal office in the city of San Francisco, and may also have

suitable rooms in the city of Los Angeles, wherein to conduct the business of the state banking department. The superintendent shall, from time to time, obtain the necessary furniture, stationery, fuel, lights, and other proper conveniences for the transaction of such business; the expense of which shall be paid out of the state treasury on the certificate of the superintendent and the warrant of the controller.

SEC. 123. A fund is hereby created, to be known as the state banking fund, and out of said fund shall be paid all the expenses incurred in and about the conduct of the business of the banking department, including the salary of the superintendent, chief deputy, attorney, clerks and examiners, traveling expenses, furnishing of rooms and rent. Each bank shall pay annually its share of the total amount of the salaries and expenses of the banking department, to be determined by the proportion which the deposits of any such bank bear to the aggregate deposits of all such banks receiving certificates of authorization from the superintendent of banks, as shown by the last report of such bank to the superintendent of banks.

All moneys collected or received by the superintendent of banks, under and by virtue of the provisions of this act, shall be by him delivered to the treasurer of the state, who shall deposit the same to the credit of said banking fund, and the unexpended balances of all moneys heretofore paid into the state treasury by any of the bank commissioners shall be retained and become a part of said fund. If any such bank shall fail to pay such charges as are herein required, the superintendent shall forthwith cancel the certificate of said bank.

SEC. 124. Every bank shall be subject to the inspection of the superintendent of banks. The superintendent of banks, the chief deputy, or some competent person or persons to be appointed by the superintendent of banks, to be known as examiners, shall visit and examine every bank, other than a savings bank, at least twice in each year, and every savings bank at least once in each year. On every such examination inquiry shall be made by him as to the condition and resources of the bank, the mode of conducting and managing its affairs, the action of its directors, the investment and disposition of its funds, the safety and prudence of its management, the security afforded to those by whom its engagements are held and whether the requirements of its articles of incorporation and the law have been complied with in the administration of its affairs, and as to such other matters as the superintendent may prescribe. He shall have power in like manner to examine every bank whenever, in his judgment, its condition and management is such as to render an examination of its affairs necessary or expedient.

He shall also have power to examine, or cause to be examined, every agency located in this state of any foreign bank or

banking corporation, for the purpose of ascertaining whether it has complied with the laws of the state, and for such other purposes and as to such other matters as the superintendent may prescribe.

The superintendent, chief deputy, and every such examiner shall have the power to administer an oath to any person whose testimony he may require on the examination of any bank, or on the examination of any agency of any foreign bank or banking corporation, and to compel appearance and attendance of any such person for the purpose of any such examination. The result of such examination shall be certified by the persons making the examination on the records of the bank examined.

When a bank shall have been examined by any examiner, and he finds securities therein which are, in his judgment, of doubtful value, he shall report the same to the superintendent of banks, who thereupon shall be authorized to employ appraisers to appraise said securities, at a compensation to be fixed by the superintendent of banks.

SEC. 125. Every examiner appointed by the superintendent of banks shall, before entering upon the discharge of his duties, take the constitutional oath of office and cause the same to be filed in the office of the secretary of state. No such examiner shall be appointed receiver of any bank whose books, papers and affairs he shall have examined pursuant to his appointment.

SEC. 126. If the chief deputy or any examiner shall have knowledge of the insolvency or unsafe condition of any bank mentioned in this act, and that it is unsafe or inexpedient to permit said bank to continue business, and shall neglect to forthwith report such fact in writing over his signature to the superintendent of banks, he shall be guilty of felony.

SEC. 127. No bank shall transact any business in this state without the written approval of the superintendent of banks, and without his written certificate stating that it has complied with the provisions of this act, and with all the requirements of law, and that it is authorized to transact, within this state, the business specified therein, and that the requisite capital has been in good faith subscribed and paid up in cash or, if organized without capital stock that it has accumulated the requisite surplus or reserve fund. Before issuing such certificate the superintendent of banks shall examine, or cause an examination to be made, in order to ascertain whether the requisite capital of such bank has been paid up in cash or the requisite reserve or surplus fund has been accumulated. The superintendent of banks shall not authorize such bank to commence business until it appears from such examination, or other evidence satisfactory to him, that the requisite capital has been, in good faith, subscribed and paid in in cash, or that the requisite surplus or reserve fund has been accumulated

or paid in in cash, and until such bank shall have paid a fee of fifty dollars. Every person who neglects to comply with any requirement of this section shall be guilty of a misdemeanor.

SEC. 128. When the articles of incorporation shall have been filed with the secretary of state, and application made for the issuance of a certificate to do business as a bank, the superintendent of banks shall ascertain, from the best sources of information at his command, whether the character and general fitness of the persons named as stockholders are such as to command the confidence of the community in which such bank is proposed to be located, and, if so satisfied, he shall, within sixty days after such application has been made to him, issue, under his hand and official seal, the certificate of authorization required by this act. The superintendent of banks shall transmit such certificate of authorization to the county clerk of such county, who shall file the same; the superintendent of banks shall also file a duplicate of such certificate in his own office.

SEC. 129. Every bank doing a departmental business shall render to the superintendent of banks for each department conducted by it, a separate report showing in detail as required by section one hundred thirty of this act, the actual financial condition of such department and shall at the time of furnishing said report separately publish the statement for each department as provided in section one hundred thirty-two of this act.

SEC. 130. Every bank doing business in this state shall, whenever required by the superintendent of banks, make a report in writing to him, verified by the oath of its president and its secretary or cashier, or two principal officers. Such reports shall show the actual financial condition of the bank making the report, at the close of any past day specified by the superintendent, and shall specify the following:

1. The amount of its capital stock and the number of shares into which it is divided, or, if not incorporated, the amount of capital actually paid in, and by whom.

2. The names of the directors and the number of shares of stock held by each, or, if not incorporated, the names of each member of the firm and the amount of capital paid in by each.

3. The total amount of capital actually paid up in money, and the total amount of contingent and other reserve funds, if any.

4. The total amount due the depositors.

5. The total amount and character of any other liabilities it may have.

6. The amount at which the lot and building occupied by the bank for the transaction of its regular business stands debited on its books, together with the market value of all other real estate held, whether acquired in settlement of loans or otherwise; the amount at which it stands debited on the bank books,

in what counties situated, and in what name the title is vested, if not in the name of the bank itself.

7. The amount loaned on real estate, specifying the amount secured on real estate in each county separately; also specifying the name of the person in whose name the property is held in trust or as security, in case it is held in any name other than that of the bank and the instrument creating the security does not itself disclose the name of the bank.

8. The amount invested in bonds, designating the name and amount of each particular kind.

9. The amount loaned on stocks and bonds, designating each particular class and the amount thereof.

10. The amount of money loaned on other securities, with a particular designation of each class and the amount loaned on each.

11. The actual amount of money on hand or deposited in any other bank or place, with the name of the place where deposited and the amount in each place.

12. Any other property held, or any amount of money loaned, deposited, invested or placed, not otherwise herein enumerated, and the place where situate and the value of said property, and the amount so loaned, deposited or placed, and any other information he may request relative to the conduct and affairs of such bank.

The oaths of the officers and the statements above required shall state that they and each of them have a personal knowledge of the matters therein contained, and that they believe every allegation, statement, matter, and thing therein contained is true. Any willful false statement in the premises shall be perjury and shall be punished as such.

SEC. 131. The superintendent of banks shall call for reports specified by the previous section, at least three times each year, and shall call for such reports as near as possible upon the same days as those designated by the comptroller of the currency of the United States for reports of national banking associations.

SEC. 132. At the time of furnishing such report to the superintendent of banks, every bank shall also publish a condensed statement of its financial condition, at least once, in some newspaper of general circulation, published in the city or town where its principal place of business is located, and, if no paper is published in such town, then in some newspaper of general circulation in the county where its principal place of business is located. Such published statement shall show the total amount of loans, the total amount of overdrafts, the total amount invested in bonds and other securities, the total amount due from banks, the total amount of checks and other cash items, the total amount of cash on hand, capital paid in, surplus funds; undivided profits, less expenses and taxes paid; due to

other banks and bankers, due to trust companies and savings banks; individual deposits subject to checks; demand certificates of deposit; time deposits; certified checks; cashier's checks outstanding; and such other items as will show the actual financial condition of the bank making the report.

SEC. 133. Whenever the superintendent of banks shall have reason to believe that the capital of any bank is reduced by impairment or otherwise below the amount required by law or by its articles of incorporation, he may require such bank to make good the deficiency within sixty days after the date of such requisition. He may examine or cause to be examined any such bank to ascertain the amount of such impairment or reduction of capital and whether the deficiency has been made good as required by him.

SEC. 134. If it shall appear to the superintendent of banks that any bank has violated its articles of incorporation, or any law binding upon it, he must, by an order under his hand and official seal, which seal must be adopted by him, addressed to such bank, direct the discontinuance of such violation; or, if it shall appear to the superintendent of banks that such bank is conducting business in an unsafe or injurious manner, he must in like manner direct the discontinuance of such unsafe or injurious practices. Such order shall require such bank to show cause, before the superintendent of banks, at a time and place to be fixed by him, why said order should not be observed. If upon such hearing it shall appear to the superintendent of banks that such bank is conducting business in an unsafe or injurious manner, or is violating its articles of incorporation, or any law of this state, then the superintendent of banks shall make such order of discontinuance final, and such bank shall immediately discontinue all practices named in such order by the superintendent of banks. Such bank shall have ten days after any such order is made final in which suit may be commenced to restrain enforcement of such order, and unless such action be so commenced and enforcement of said order be enjoined within ten days, by the court in which such suit is brought, then such bank shall comply with such order; and, in the event of its failure so to do, then the superintendent of banks shall have power to take immediate charge and control of said bank, and liquidate its affairs in the manner provided in this act for the liquidation of banks.

SEC. 135. In any such action, no damage may be awarded, but the action otherwise shall be commenced, tried and determined according to the provisions of the Code of Civil Procedure of California.

SEC. 136. Whenever the superintendent of banks shall have reason to conclude that any bank is in an unsound or unsafe condition to transact the business for which it is organized, or that it is unsafe or inexpedient for it to continue business, the

superintendent of banks may forthwith take possession of the property and business of such bank, and retain such possession until such bank shall resume business, or its affairs be finally liquidated, as herein provided.

On taking possession of the property and business of any such bank, the superintendent of banks shall forthwith give notice in writing of such fact to any and all corporations and individuals holding or in possession of any of the assets of such bank.

No bank, corporation or individual, knowing of such taking possession by the superintendent of banks, or notified as aforesaid, shall have a lien or charge for any payment, advance or clearance thereafter made, or liability thereafter incurred against any of the assets of the bank of whose property and business the superintendent of banks shall have taken possession as aforesaid. Such bank may, with the consent of the superintendent of banks, resume business upon such conditions as may be approved by him.

Upon taking possession of the property and business of such bank, the superintendent of banks is authorized to collect moneys due to such bank, and to do such other acts as are necessary to conserve its assets and business, and shall proceed to liquidate the affairs thereof as hereinafter provided.

The superintendent of banks shall collect all debts due and claims belonging to it, and upon the order of the superior court may sell or compound all bad or doubtful debts, and on like order may sell all real and personal property of such bank on such terms as the court shall direct; and may, if necessary to pay the debts of such bank, enforce individual liability of the stockholders by action to be brought within three years after the date of his taking possession of the affairs of such bank.

The superintendent of banks may, under his hand and official seal, appoint one or more special deputy superintendents of banks, as agent or agents, to assist him in the duty of liquidation and distribution, the certificate of appointment to be filed in the office of the superintendent of banks, and a certified copy in the office of the clerk of the county in which the principal office of such bank is located.

The superintendent of banks may, from time to time, authorize a special deputy superintendent to perform such duties connected with such liquidations and distribution as the superintendent of banks may deem proper. The superintendent of banks may employ such counsel, and procure such expert assistance and advice as may be necessary in the liquidation and distribution of the assets of such bank, and may retain such officers or employees of such bank as he may deem necessary. The superintendent of banks shall require, from a special deputy superintendent and from such assistants, such security

for the faithful discharge of their duties as he may deem proper.

The superintendent of banks shall cause notice to be given by advertisement in such newspapers as he may direct, weekly, for three consecutive months, calling on all persons who may have claims against such bank, to present the same to the superintendent of banks, and make legal proof thereof, at a place and within a time not more than six months after the last day of publication, to be therein specified.

The superintendent of banks shall mail a copy of such notice to all persons whose names appear as creditors upon the books of the bank. If the superintendent of banks doubts the justice and validity of any claim, he may reject the same and serve notice of such rejection upon the claimant, either by mail or personally. An affidavit of the service of such notice shall be prima facie evidence thereof, and shall be filed with the superintendent of banks. An action upon a claim so rejected must be brought within six months after such service. Claims presented after the expiration of the time fixed in the notice to creditors shall be entitled to share ratably in the distribution to the extent of the assets in the hands of the superintendent of banks, equitably applicable thereto.

Upon taking possession of the property and assets of such bank, the superintendent of banks shall make an inventory of the assets of such bank in duplicate, one to be filed in the office of the superintendent of banks, and one in the office of the clerk of the county in which the principal office of such bank is located; upon the expiration of the time fixed for the presentation of claims, the superintendent of banks shall make in duplicate a full and complete list of the claims presented, including and specifying such claims as have been rejected by him, one to be filed in the office of the superintendent of banks, and one in the office of the clerk of the county in which the principal office of such bank is located; such inventory and list of claims shall be open at all reasonable times for inspection.

The compensation of the special deputy superintendents, counsel, and other officers and assistants, and all expenses of supervision and liquidation, shall be fixed by the superintendent of banks on notice to such bank, and shall upon his certificate be paid out of the funds of such bank in his hands.

The sums collected by the superintendent of banks shall, from time to time, be deposited in one or more banks in this state, subject to examination by the superintendent of banks.

At any time after the expiration of the date fixed for the presentation of claims, the superintendent of banks may, out of the funds remaining in his hands after the payment of expenses, declare one or more dividends, and after the expiration of one year from the date of first publication of notice to creditors he may declare a final dividend.

Objection to any claim not rejected by the superintendent of banks may be made by any party interested, by filing a copy of such objection with the superintendent of banks, who shall present the same to the superior court of the county in which such bank has its principal place of business, with a petition that said court pass upon the validity of such claims; and such court shall thereupon, upon such notice to the party presenting the same, and to the superintendent of banks, as the court may deem proper, accept or reject said claim, and the superintendent of banks shall observe the order of the court in that regard; *provided, however*, that should the claim be rejected, such rejection shall not conclude the claimant from bringing an action upon such claim within six months after such rejection.

Upon the petition of the superintendent of banks, such court may make proper provisions for unclaimed deposits.

Whenever any such bank, of whose property and business the superintendent of banks has taken possession as aforesaid, deems itself aggrieved thereby, it may at any time within ten days after such taking possession, and not thereafter, apply to the superior court in the county in which the principal office of such bank is located, to enjoin further proceedings; and said court, after citing the superintendent of banks to show cause why further proceedings should not be enjoined, and upon hearing the allegations and proofs of the parties, and determining the facts, may, upon the merits, dismiss such application, or enjoin the superintendent of banks from further proceedings, and direct him to surrender such business and property to such bank.

Either party aggrieved by the judgment rendered thereon may appeal therefrom to the supreme court, as in other cases of appeal thereto from the judgment of a superior court.

An appeal as above provided shall operate as a stay of the judgment of the superior court, and no bond need be given if the appeal be taken by the superintendent of banks; but if the appeal be taken by such bank, a bond shall be given, as required by section nine hundred and forty-three of the Code of Civil Procedure.

Whenever the superintendent of banks shall have paid to each and every depositor and creditor of such corporation (not including stockholders) whose claim or claims as such creditor or depositor shall have been duly approved and allowed the full amount of such claim, and shall have made proper provisions for unclaimed and unpaid deposits or dividends, and shall have paid all expenses of the liquidation, the superintendent of banks shall call a meeting of the stockholders of such corporation by giving notice thereof for thirty days, in one or more newspapers published in the county where the principal office of such corporation is located. At such meeting, the superintendent of banks shall appear and deliver to

the stockholders all the property, effects and records of such bank, and upon such transfer and delivery he shall be discharged from any and all further liability to such bank and its creditors. And thereupon the bank shall be in the same position as though it had never been authorized to transact a banking business, and such bank, by fulfilling the requirements of this act, and of the superintendent of banks, can thereafter be authorized to resume the conduct of its business as a bank.

SEC. 137. 1. Any bank shall have the right, on application of the stockholders or members to apply to the superior court of the county wherein its principal place of business is situated, to dissolve said bank in the manner provided for in title six, part three of the Code of Civil Procedure.

2. It is hereby made the duty of every person or corporation holding funds of any bank, at the end of five years from and after such bank has ceased to receive deposits, or do business, to pay the same into the state treasury, which money shall be held in the state school land fund; and at the same time it shall be the duty of such person or corporation to furnish to the state controller a list of the names of all depositors to whom said moneys belong or to whom said bank owes the same.

3. The money may be drawn out on the warrants of the state controller, issued on proofs of ownership, approved and allowed by the state board of examiners.

4. All moneys paid into the said fund, uncalled for within five years after being paid in, shall by operation of law, and without action had, escheat to the state, and thereafter only be drawn out in such manner as now provided for by law for the estates of deceased persons escheated to this state.

5. The state board of examiners must invest such moneys in the same manner that the state school land fund is invested as provided by law. But any claimant shall be entitled to recover as herein provided only the principal so paid into the state treasury.

SEC. 138. If any bank shall fail to make the report required by law or by the superintendent of banks, within ten days from the day designated for the making thereof, or to include therein any matter required by law or by the superintendent of banks, every such delinquent bank shall forfeit to the people of the state the sum of one hundred dollars for each day that such report shall be delayed or withheld, and for every day it shall fail to report any such omitted matter. In the event of the failure of any such bank to make the report required from it by law, or by the superintendent of banks, he shall immediately cause the books, papers and affairs of such bank to be thoroughly examined.

SEC. 139. It shall be the duty of the board of directors of every bank to examine fully into the books, papers and affairs

of the bank of which they are directors, and particularly into the loans and discounts thereof, with a special view to ascertaining the value and security thereof, and of the collateral security, if any given, in connection therewith, and into such other matters as the superintendent of banks may require; such examination to be made at least once a year, but no such subsequent yearly examinations shall be made within three months of the next preceding examination. Such directors shall have power to employ such assistance in making such examinations as they may deem necessary. Within ten days after the completion of such examination, a report in writing thereof, sworn to by the directors making the same, shall be made by the board of directors of such bank, and placed on file with the records of said bank, and shall be subject to examination by the superintendent of banks.

Such report shall particularly contain a statement of the assets and liabilities of the bank examined, as shown by its books, together with any deductions from the assets, or additions to liabilities, which such directors or committee, after such examination, may determine to make. It shall also contain a statement, in detail, of loans, if any, which in their opinion are worthless or doubtful, together with their reasons for so regarding them; also a statement of loans made on collateral security, which in their opinion are insufficiently secured, giving in each case the amount of the loan, the name and market value of the collateral, if it has any market value, and, if not, a statement of that fact, and its actual value as nearly as possible. Such report shall also contain a statement of overdrafts, of the names and amounts of such as they consider worthless or doubtful, and a full statement of such other matters as affect the solvency and soundness of the bank. If the directors of such bank shall fail to make, or cause to be made, and file such report of examination in the manner and within the time specified, the directors of such bank shall be guilty of a misdemeanor.

SEC. 140. The superintendent of banks shall report during the month of October of each year, to the governor, for submission to the next ensuing session of the legislature:

1. A summary of the state and condition of every bank required to report to him, and from which reports have been received the preceding year, with an abstract of the whole amount of capital returned by them, the whole amount of their debts and liabilities, and the total amount of means and resources, specifying the amount of specie held by them at the time of the last report to him, and such other information in relation to such banks as, in his judgment, may be useful.

2. A statement of all banks authorized by him to do business during the previous year, with their names and locations and dates of incorporation, and particularly designating such as have commenced business during the year.

3. A statement of the banks whose business has been closed during the year.

4. Any amendments to the banking law, which, in his judgment, may be desirable.

5. The names and compensation of all persons employed by him, and the whole amount of the receipts and expenses of the department during the year.

6. The names of banks placed in his hands in process of liquidation, and the amount of dividends paid thereon.

Such report, and the usual number of copies for the use of the legislature, shall be printed and in readiness for distribution by the state printer, and one thousand copies shall be printed for the use of the department, the expense of which shall be charged among the general expenses of the department.

SEC. 141. 1. The superintendent of banks shall keep in his office, in a place accessible to the general public, a bulletin board upon which he shall cause to be posted at noon on Friday of each week a detailed statement, signed by him or, in case of his absence from San Francisco or inability to act, by the deputy superintendent in charge, giving the following items of general information with regard to the work of the department since the preceding statement:

(a) The name of every bank that has filed in the banking department an application for authorization to commence business, its location and the date of filing of such application.

(b) The name and location of every bank authorized by the superintendent of banks to commence business, its capital, surplus, and the date of authorization.

(c) The name of every bank to which a certificate of authorization has been refused by the superintendent of banks, and the date of notice of refusal.

(d) The name and residence of every person appointed by the superintendent of banks as a deputy, examiner or employee in the banking department, the title of the office to which appointed, the compensation paid, and the date of appointment.

(e) The date on which a call for a report by banks was issued by the superintendent of banks, and the day designated as the day with reference to which such report should be made.

(f) The name and location of every bank whose creditors or depositors have been paid in full by the superintendent of banks and a meeting of whose stockholders shall have been called, together with date of notice of meeting and date of meeting.

(g) The name and location of every bank subject to the banking law whose affairs and business shall have been finally liquidated, or in course of liquidation.

(h) The name and location of every bank which has applied for approval of a change of name, and the name proposed.

2. Every such bulletin, after having been posted as aforesaid for one week, shall be placed on a file for such statements, to be kept in the office of the superintendent of banks. All such statements shall be public documents, and at all reasonable times shall be open to public inspection during usual banking hours.

SEC. 142. Every official report made by the superintendent and every report duly verified of an examination made, shall be prima facie evidence of the facts therein stated, for all purposes in any action or proceeding wherein such bank is a party.

SEC. 143. If the superintendent of banks shall have knowledge of the insolvency or unsafe condition of any bank mentioned in this act, and that it is unsafe or inexpedient to permit said bank to continue business, and shall neglect to forthwith take action as provided in sections one hundred thirty-three, one hundred thirty-four, and one hundred thirty-six of this act, he shall be guilty of a felony.

SEC. 144. Whenever by the terms of this act a penalty or forfeiture is imposed, the same shall be recovered in an action brought at the request of the superintendent of banks by the attorney general, in the name of the people of the state, and the sum recovered shall be paid into the state banking fund and used in payment of claims against the said fund.

SEC. 145. The powers, privileges, duties and restrictions conferred and imposed upon any corporation or individual existing and doing business under the laws of this state are hereby abridged, enlarged or modified as each particular case may require, to conform to the provisions of this act, notwithstanding anything to the contrary in their respective articles of incorporation or charters. The legality of investments heretofore made, or of transactions heretofore had, pursuant to any provisions of law in force when such investments were made or transactions had, shall not be affected by the provisions of this act, nor shall such provisions require the changing of investments for those named in this act, except as the same can be done gradually by the sale or redemption of the securities so invested in, in such manner as to prevent loss or embarrassment in the business of such bank, or unnecessary loss or injury to the borrowers on such security.

SEC. 146. All acts, or parts of acts, in conflict with this act are hereby repealed.

SEC. 147. This act shall take effect July first, 1909.

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